



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO. 420 OF 2024

Pravin S/o Anandrao Sahare,
Aged about 22 years, Occ.-Nil,
R/o. Morgaon, Post Arjuni,
Tal. Morgaon/Arjuni, Dist. Gondia.

.... **APPELLANT**

// VERSUS //

The Union of India,
Through General Manager,
South East Central Railway,
Bilaspur (C.G.).

.... **RESPONDENT**

Mr. R. G. Bagul, Advocate for Appellant.
Ms. Neerja Chaubey, Advocate for Respondent.

CORAM : SANJAY A. DESHMUKH, J.
DATE : 06th SEPTEMBER, 2024.

ORAL JUDGMENT.

1. **Admit.** Heard finally with the consent of the learned
Advocates for the parties.

2. This appeal is preferred by the appellant/applicant
against the Judgment dated 14.12.2015, passed by the Railway
Claims Tribunal, Nagpur Bench, Nagpur, in Case No. OA

(IIu)/NGP/2013/0073, thereby claim of the appellant/applicant for grant of compensation was dismissed.

3. Brief facts of the applicant's case are as under :

(i) On 14.02.2013, the applicant was travelling by passenger Demo train No.58805 from Wadsa to Wadegaon, with a valid journey ticket, bearing No.30769373. Due to the heavy crowd in the train, the applicant was standing near to the door. When the said train arrived at Wadegaon Railway Station, the applicant was pushed by the force of other passengers. As a result, the applicant fell down from the running train between the platform and the train and subsequently came under the wheels of the train. Therefore, the applicant sustained severe injuries to his hand and head. In the said accident, the applicant's left hand was amputated above the elbow. Therefore, the applicant filed an application for compensation before the Railway Tribunal.

(ii) The respondent denied the applicant's claim and contended that no such incident causing injury within the meaning of Section 124-A of the Railways Act occurred. Therefore, the claim is not maintainable. The respondent further contended that there was no jerk in the train, and that the applicant accidentally fell down

while attempting to alight from the moving train, which is not only dangerous but also a gross violation of safety rules of respondent. The alleged incident falls under the purview of “self-inflicted injuries” and does not fall under the expression of “untoward incident”. Therefore, the applicant is not entitled to any compensation. It is therefore, prayed that the claim of the applicant be dismissed.

4. The following issues were framed by the Railway Tribunal :

(1) Whether the Applicant proves that on the relevant day he sustained injuries in the train, in an untoward incident in terms of Section 123(c) of the Railways Act, 1989?

(2) Whether the respondents prove that the claimant was not a bonafide passenger of the train, in question, on the relevant day?

5. The learned Railway Tribunal held that the applicant failed to prove that the alleged untoward incident occurred and found that the injuries were self-inflicted. Thus, the claim of the applicant was dismissed. Being aggrieved, the applicant has filed this appeal.

6. Perused the record and proceedings. Heard learned Advocates for both sides.

7. The learned Advocate for the appellant submitted that there are certain admitted documents i.e. DMR Report, Spot panchnama, Report to Police Inspector, Arjuni Morgaon regarding a passenger injured by a train, Discharge Card, Ticket of train, and Disability Certificate. These documents show that the incident took place in the railway premises, thereby proving that an untoward incident occurred. The appellant possessed a valid journey ticket, therefore, he was a *bona fide* passenger. The learned Advocate for the appellant further submitted that the reasons and findings of the learned Railway Tribunal are neither legal nor correct. It is lastly prayed that the appeal be allowed and compensation be granted to the appellant.

8. The learned Advocate Ms. Neerja Chaubey for the respondent, strongly opposed the appeal and submitted that the untoward incident is not proved. The applicant had fallen due to his own deliberate, rash and negligent act. The injuries are sustained, as the applicant attempted to alight from the moving train. The reasons and findings of the learned Railway Tribunal are legal, correct and do not warrant any interference. It is lastly prayed that the appeal be dismissed.

9. The following points emerged for consideration :

- (i) *Was it proved by the appellant that on the relevant day, the injuries sustained were a result of an untoward incident?*
- (ii) *Was it proved by the appellant that he was a bona fide passenger of the said train?*
- (iii) *Is the impugned judgment illegal and does it require interference?*

10. To prove the claim, the applicant Pravin Sahare adduced his evidence by filing an affidavit of examination-in-chief, marked as Exhibit AW-1. He reiterated the material contentions stated in his application for compensation. The applicant relied on the documents i.e. Railway ticket at (Exhibit-A1), Spot panchnama at (Exhibit-A2), Seizure Panchnama at (Exhibit-A3), Report at (Exhibit-A4), Discharged Card at (Exhibit-A6), Disability Certificate at (Exhibit-A7) and Aadhar Card at (Exhibit-A8). However, the respondent did not adduce any evidence to support its defence.

11. The DMR Report, Spot panchnama, corroborates the applicant's claim that the untoward incident occurred in the railway premises, leading to the amputation of his left hand above the elbow. The valid journey ticket found with the applicant, proves that he was a *bona fide* passenger, which serves as a natural evidence.

The reasons given by the Railway Tribunal are not legal, sound and correct. No independent evidence of witness is necessary to corroborate the claim of the appellant that the applicant was injured in the untoward incident, on the railway premises. The evidence was collected by the Investigating Officer in the natural course of the investigation. To corroborates the case of applicant, even evidence of eye witness is not necessary.

12. The negligence of any person who sustained injuries or dies in the railway premises, while holding a valid journey ticket cannot be considered, even if he/she was negligent, which is held by the Hon'ble Supreme Court in the case of ***United India Insurance Co. Ltd., Vs. Sunil Kumar***, reported in ***2017 (13) SCALE 652***.

13. Regarding the applicant's disabilities, the Certificate for persons with Disabilities is on record at Exhibit-A7, which shows that applicant is 65% permanently disabled. All these aspects were not properly considered by the learned Railway Tribunal. The learned Tribunal failed to appreciate the evidence in proper perspective and failed to believe the evidence of applicant. The reasons and findings of the learned Tribunal are not sustainable in the eyes of law. There is no factual or legal justification to deny the compensation to the

appellant. Thus, the appellant being a *bona fide* passenger and the occurrence of an untoward incident are proved. Therefore, the point Nos.1 to 3 are answered in the 'affirmative'. The appeal deserves to be partly allowed, and the applicant is entitled for compensation of Rs.6,40,000/-. The impugned judgment deserved to be set aside. For the reasons discussed above, the argument of learned Advocate for the respondent is not acceptable. Hence, the following order :

- (i) The Appeal is **partly allowed**.
- (ii) The Judgment dated 14.12.2015 passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur in Case No. OA (Ilu)/NGP/2013/0073, is set aside.
- (iii) The respondent is directed to pay compensation of **Rs.6,40,000/-** (Rs. Six Lakhs Forty Thousand only) to the appellant. The compensation amount be deposited within four months before the Railway Tribunal.
- (iv) The Record and proceedings be sent back to the Railway Tribunal.

(SANJAY A. DESHMUKH, J.)